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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,424	09/25/2001	Mitsuru Yamamoto	00862.022388.	6884
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FITZPATRICK CELLA HARPER & SCINTO 1290 Avenue of the Americas NEW YORK, NY 10104-3800			RUSTEMEYER, BRETT J	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/961,424	YAMAMOTO, MITSURU
	<b>Examiner</b>	<b>Art Unit</b>
	BRETT RUSTEMEYER	2426

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 17 September 2009.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 38-47 is/are pending in the application.
- 4a) Of the above claim(s)        is/are withdrawn from consideration.
- 5) Claim(s)        is/are allowed.
- 6) Claim(s) 38-47 is/are rejected.
- 7) Claim(s)        is/are objected to.
- 8) Claim(s)        are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 21 September 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No.       .
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date       .
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date,       .
- 5) Notice of Informal Patent Application
- 6) Other:       .

## **DETAILED ACTION**

### ***Continued Examination under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission filed on September 20, 2009 has been entered.
2. This Office action is in response to an AMENDMENT in the Applicants' submission for the patent application, 09/961,424, filed on September 25, 2001.

### ***Status of Claims***

3. Claims 38-47 are pending.

### ***Claim Objections***

4. Claim 38 and 43 are objected to for the minor informality: It is suggested the conjunction 'and' be added between the limitations: *via the second transmission path and based on the appended destination address of the designated display terminal*. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in **Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966)**, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: (*See MPEP Ch. 2141*)

- a. Determining the scope and contents of the prior art;
- b. Ascertaining the differences between the prior art and the claims in issue;
- c. Resolving the level of ordinary skill in the pertinent art; and
- d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.

6. Claims 38-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,574,798 B1, to Bradley et al., hereinafter "**Bradley**", in view of U.S. Patent 5,497,186, to Kawasaki, hereinafter "**Kawasaki**".

Examiner's Note (EN): It appears that the combined teaching of **Bradley** in view of **Kawasaki**, as a whole, applies with specific sections identified as follows. 10 ¶ applies.

**Regarding claim 38,**

**Bradley** reads on (in *italics*):

*A video server which is connected to a plurality of control terminals via a first transmission path, and which is connected to a plurality of display terminals via a second transmission path {Bradley, FIGS. 2, 6, C 6: L 16-23, 28-31, C 14: L 32-40; EN: wherein the global authorization computer (GAC) reads on the video server, since it "administers the video system"; the transmission path connecting the customer location to the GAC reads on the first transmission path; and the local distribution network connecting (See FIG. 6) the customer location to the GAC via the local source of video signals reads on the second transmission path}, the server comprising:*

*a first reception unit configured to received a video request from a first one of the plurality of control terminals via the first transmission path, wherein the video request comprises video designation data designating video data to be displayed on a display terminal, display terminal designation data designating a display terminal on which the video data is to be displayed, and first identification data identifying the first control terminal that transmitted the video request {Bradley, FIGS. 2, 7a, C 6: L 16-23, C 15: L 59 – C 17: L 4; EN: wherein the interactive voice response (IVR) interface reads on the first reception unit; the telephone at the customer location reads on the first control terminal; the telephone call reads on the video request; the pay-for-use selection reads on the video designation data; the room number or pre-assigned television number reads on the display terminal designation data; and the call identification process and/or telephone number of the room entered on the keypad reads on the first identification data};*

*a generating unit configured to generate first confirmation data based on the received video request, and appending a destination address corresponding to the designated display terminal to the first confirmation data (Bradley FIGS. 7a, 7b, C 15: L 59 – C 17: L 4);*

*[...]*

*a confirmation data reception unit configured to receive second confirmation data from the first control terminal which transmitted the video request received by the first reception unit, wherein the second confirmation data is input in the first control terminal by a user who confirms the first confirmation data displayed on the display terminal (Bradley, FIGS. 2, 7b, C 15: L 59 – C 17: L 52; EN: wherein a first inherent GAC processing routine reads on the confirmation data reception unit; “the appropriate code on h[e]r keypad” reads on the second*

*confirmation data), and to receive second identification data of the first control terminal that transmitted the second confirmation data {Bradley, FIGS. 2, 8a, C 16: L 25-29; EN: wherein “the telephone number [s]he is calling from” (i.e., an institution number) reads on the second identification data};*

*a comparison unit configured to compare the first identification data received by the first reception unit with the second identification data received by said confirmation data reception unit (Bradley, FIG. 7a, C 16: L 45-52; EN: wherein a second inherent GAC processing routine reads on the comparison unit; See Step 180), and to compare the first confirmation data transmitted by said confirmation data transmission unit with the second confirmation data received by said confirmation data reception unit to confirm that the user has designated the correct display terminal (Bradley, FIG. 7b, C 17: L 45-59, 66 – C 18: L 3; EN: See Step 192); and*

*a video data transmission unit configured to transmit, via the second transmission path, the video data designated by the video designation data to the display terminal designated by the display terminal designation data, to display the video data (Bradley, FIGS. 2, 6, 7c, C 14: L 32-46, C 18: L 16-22), if both of the comparisons by said comparison unit result in a match (Bradley, FIG. 7a, 7b, C 16: L 45-52, C 17: L 45-59, 66 – C 18: L 3; EN: See Steps 180 & 192, wherein room number or pre-assigned television number must be a valid number of the institution identified by the entered telephone number she is calling from and the customer must enter in the appropriate code on his telephone keypad to proceed), and*

*wherein if either comparison by the comparison unit does not result in a match, the video data designated by the video designation data is not transmitted to the display terminal*

*designated by the display terminal designation data (Bradley, FIGS. 2, 6, 7a, 7b, C 16: L 48-52, C 17: L 53-59).*

**Bradley** is silent on (in *italics*):

*a generating unit configured to generate first confirmation data based on the received video request, and appending a destination address corresponding to the designated display terminal to the first confirmation data;*

*a confirmation data transmission unit configured to transmit, via the second transmission path based on the appended destination address of the designated display terminal, the first confirmation data generated by said generating unit to the display terminal designated by the display terminal designation data, and to cause the display terminal to display the first confirmation data;*

[...] wherein the second confirmation data is input in the first control terminal by a user who confirms *the first confirmation data displayed on the display terminal*,

[...]

*and to compare the first confirmation data transmitted by said confirmation data transmission unit with the second confirmation data received by said confirmation data reception unit to confirm that the user has designated the correct display terminal [...].*

**Kawasaki** reads on (in *italics*):

*a generating unit configured to generate first confirmation data based on the received video request, and appending a destination address corresponding to the designated display terminal to the first confirmation data (Kawasaki, FIG. 2, C 2: L 45 – C 3: L 28; wherein the*

control computer reads on the *generating unit*; the message command reads on the *first confirmation data*; the terminal address reads on the *destination address*);

*a confirmation data transmission unit configured to transmit, via the second transmission path based on the appended destination address of the designated display terminal, the first confirmation data generated by said generating unit to the display terminal designated by the display terminal designation data, and to cause the display terminal to display the first confirmation data (Kawasaki, FIG. 2, C 1: L 7-10, 22-40, C 2: L 45 – C 3: L 28; EN: wherein the mixer reads on the confirmation data transmission unit);*

[...] wherein the second confirmation data is input in the first control terminal by a user who confirms *the first confirmation data displayed on the display terminal (Kawasaki, C 5: L 4-8)*,

[...]

and to compare *the first confirmation data transmitted by said confirmation data transmission unit* with the second confirmation data received by said confirmation data reception unit to confirm that the user has designated the correct display terminal (Kawasaki, FIG. 2, C 2: L 45 – C 3: L 28, C 5: L 4-8) [...].

**Rationale:**

Since it may be difficult for a consumer to distinguish the content of a pay-for-use selection from the content of a non-pay-for-use option, it would have been obvious to one ordinarily skilled in the art to apply the technique of creating and transmitting a message command comprising announcement picture data in the form of a character string for display on a particular terminal address as described by Kawasaki to improve the respective functionality

of the GAC, local video source, and television control interface disclosed by **Bradley** for the predictable result of displaying a confirmation message screen comprising an appropriate code to the customer so she may accurately verify receipt of the authorization packet(s) via the IVR or telephone keypad interface.

**Regarding claim 39,**

**Bradley** reads on (in *italics*):

*[...] a character string that includes location information and reception time information of the video request* (**Bradley**, C 14: L 66 - C 15: 11).

**Bradley** is silent on (in *italics*):

*wherein the first confirmation data is generated based on a position where the display terminal designated by the display terminal designation data is located, and is comprised of a character string that includes location information and reception time information of the video request.*

**Kawasaki** reads on (in *italics*):

*wherein the first confirmation data is generated based on a position where the display terminal designated by the display terminal designation data is located, and is comprised of a character string that includes location information and reception time information of the video request* (**Kawasaki**, FIG. 2, C 2: L 45 – C 3: L 28, C 5: L 4-8; EN: wherein the character data reads on the *character string*).

**Rationale:**

It further would have been obvious to one ordinarily skilled in the art to apply the technique of creating and transmitting a message command comprising announcement picture data in the form of a character string for display on a particular terminal address as described by **Kawasaki** to improve the respective functionality of the GAC, local video source, and television control interface disclosed by **Bradley** for the predictable result of displaying a confirmation message screen comprising: an appropriate code to the customer so she may accurately verify receipt of the authorization packet(s) via the IVR or telephone keypad interface; the customer's room number; and the authorized period of time to access the pay-for-use selection.

**Regarding claim 40,**

**Bradley** reads on (in *italics*):

wherein the first confirmation data is *a reception identification number assigned to video data designated by the video designation data* (**Bradley**, C 16: L 58-67).

**Bradley** is silent on (in *italics*):

*wherein the first confirmation data* is a reception identification number assigned to video data designated by the video designation data.

**Kawasaki** reads on (in *italics*):

wherein *the first confirmation data* is a reception identification number assigned to video data designated by the video designation data (**Kawasaki**, FIG. 2, C 2: L 45 – C 3: L 28).

**Rationale:**

It further would have been obvious to one ordinarily skilled in the art to apply the technique of creating and transmitting a message command comprising announcement picture data in the form of a character string for display on a particular terminal address as described by **Kawasaki** to improve the respective functionality of the GAC, local video source, and television control interface disclosed by **Bradley** for the predictable result of displaying a confirmation message screen comprising an appropriate code to the customer so she may accurately verify receipt of the authorization packet(s) via the IVR or telephone keypad interface, wherein the appropriate code is the same code used to enter h[e]r selection using the keypad of h[e]r telephone; thereby permitting re-entry of a recognizable number.

**Regarding claim 41,**

**Bradley** reads on (in *italics*):

*wherein the reception identification number has a format of a video signal; [...].*

**Bradley** is silent on (in *italics*):

*wherein the reception identification number has a format of a video signal; and  
a communication path via which said confirmation data transmission unit transmits the reception identification number to the display terminal is the same as a communication path via which said video data transmission unit transmits the video data to the display terminal.*

**Kawasaki** reads on (in *italics*):

*wherein the reception identification number has a format of a video signal* (**Kawasaki**, C 2: L57 – C 3: 28); and

*a communication path via which said confirmation data transmission unit transmits the reception identification number to the display terminal is the same as a communication path via which said video data transmission unit transmits the video data to the display terminal* (**Kawasaki**, FIG. 2, C 1: L 54-60, C 2: L 45 – C 3: L 28).

**Rationale:**

It further would have been obvious to one ordinarily skilled in the art to apply the technique of creating and transmitting a displayable message command comprising announcement picture data in the form of a character string together with the signal carrying the broadcast program, to view on a particular terminal address as described by **Kawasaki** to improve the respective functionality of the GAC, local video source, and television control interface disclosed by **Bradley** for the predictable result of displaying a confirmation message screen comprising an appropriate code to the customer so she may accurately verify receipt of the authorization packet(s) via the IVR or telephone keypad interface, wherein the appropriate code is the same code used to enter h[e]r selection using the keypad of h[e]r telephone; thereby permitting re-entry of a recognizable number.

**Regarding claim 42,**

**Bradley** reads on (in *italics*):

wherein the first confirmation data is *a random number generated upon receiving the video request* (**Bradley**, C 22: L 58-65).

**Bradley** is silent on (in *italics*):

wherein *the first confirmation data* is a random number generated upon receiving the video request.

**Kawasaki** reads on (in *italics*):

wherein *the first confirmation data* is a random number generated upon receiving the video request (**Kawasaki**, FIG. 2, C 2: L 45 – C 3: L 28).

**Rationale:**

It further would have been obvious to one ordinarily skilled in the art to apply the technique of creating and transmitting a message command comprising announcement picture data in the form of a character string for display on a particular terminal address as described by **Kawasaki** to improve the respective functionality of the GAC, local video source, and television control interface disclosed by **Bradley** for the predictable result of displaying a confirmation message screen comprising an appropriate code to the customer so she may accurately verify receipt of the authorization packet(s) via the IVR or telephone keypad interface, wherein the appropriate code is a random number associated with the room to promote system security.

**Regarding claims 43-47**, please refer to citations and remarks made by the Examiner stated in response to claims 38-42, respectively.

***Response to Arguments***

7. Applicant's arguments and remarks documented in the Applicant's submission pertaining to the 35 U.S.C. § 103 (a) rejection of independent claims 38, 43, and dependent claims thereof, have been considered, but are moot in view of the new ground(s) of rejection.

***Examination Considerations***

8. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure." *In re Morris*, 127 F.3d 1048, 1054-1055, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). "Limitations appearing in the specification but not recited in the claim are not read into the claim." *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969) (MPEP p 2100-8, C 2: L 45-48; p 2100-9, C 1: L 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

9. Examiner's Notes are provided with the cited references to prior art to assist the Applicant(s) to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art which may be applied in future Office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution.

However, and unless otherwise stated, the Examiner's Notes are not prior art, but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

10. Unless otherwise annotated, Examiner's statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent *prima facie* statement.

11. Examiner's Opinion: ¶ 7-9 apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to Applicants' disclosure:

- a. Yuen, United States Patent 6,662,007 B2 discloses of a cordless phone back link for interactive television system.
- b. Townsend, United States Patent 7,356,828 B2 discloses of a television system implementing a pay-per-view system.

13. Claims 38-47 are rejected.

***Contact***

14. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Brett Rustemeyer whose telephone number is (571) 270-1849.

The examiner can normally be reached on Monday - Friday 9:00 a.m.-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BR/  
Examiner – Art Unit 2426  
December 19, 2009

/Joseph P. Hirl/  
Supervisory Patent Examiner, Art Unit 2426  
December 21, 2009